

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

FERNANDO ZALDIVAR-PINEDA

PETITIONER

VS.

CIVIL ACTION NO. 5:14-cv-31(DCB)(MTP)

BARBARA WAGNER

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on Magistrate Judge Michael T. Parker's Report and Recommendation (**docket entry 8**), to which no objections were filed by the Petitioner. Having carefully reviewed same, the Court finds that the Petitioner is no longer entitled to pursue his claims in a writ of habeas corpus under 28 U.S.C. § 2241. A federal prisoner may challenge the manner in which his sentence is being executed by filing a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. However, Article III of the United States Constitution provides that "federal courts may only adjudicate actual, ongoing cases or controversies." Lewis v. Cont'l Bank Corp., 494 U.S. 472, 477 (1990). According to BOP records, Zaldivar has been transferred into ICE custody for deportation proceedings. See Inmate Profile, Exh. 1-A. Therefore, his case is now moot. Therefore, the Court adopts the Report and Recommendation, and shall dismiss the Petition for Writ of Habeas Corpus with prejudice.

Accordingly,

IT IS HEREBY ORDERED that Magistrate Judge Michael T. Parker's

Report and Recommendation (**docket entry 9**) is ADOPTED as the findings and conclusions of this Court;

IT IS FURTHER ORDERED that the Petition be dismissed with prejudice.

A Final Judgment dismissing the Petition with prejudice will follow in accordance with Federal Rule of Civil Procedure 58.

SO ORDERED, this the 27th day of October, 2016.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE